IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 276 OF 1993

Bhalchandra G. Bahira
since deceased through his
legal heirs
Smt. Sharda Bhalchandra Bahira
& ors. ..Appellants

versus

The Special Land Acquisition
Officer, Panvel ..Respondents

Ms. S. J. Patwardhan i/b. D. N. Salvi and
P. K. Limaye for the Appellants.
Mr. S. N. Gawade, AGP for the Respondents - State.

CORAM : D. G. DESHPANDE,J.

DATE : 7TH MARCH ,2005

ORAL ORDER :

1. Heard learned counsel for the parties.

2. This Appeal is filed by the Appellants for enhancement of compensation from Rs.10/- per sq. meter to Rs.20/- per sq. meter. The SLAO awarded compensation at Rs.8/- per sq. meter. The claimants had claimed Rs.20/- per sq. meter but the

Reference Court awarded only Rs.10/- per sq. meter.

3. The land acquired is situate at Takka, near Panvel and the area of the acquired land is 4250 sq. meters. The notification under section 4 was dated 3.2.1970. The Reference Court awarded Rs.2/- in addition to whatever was awarded by the SLAO on the basis of the findings of Expert Jeevan Kulkarni but the claimants are not satisfied by that meager and minor enhancement and therefore they have filed this Appeal.

4. I had decided number of appeals from these villages which were near to Panvel and the only criteria that was adopted, on the basis of the Judgment of the Division Bench in First Appeal No. 875 of 1985 and 30 other First Appeals with 4 Cross Objections dated 16th March 2000, was proximity of the acquired land from Bombay Panvel National Highway.

5. Expert Jeevan Kulkarni has stated that he has given relevant distances in his report. In para 9 of the judgment of the Reference Court, the court observed as under:

> **"So far as enhancement of the rate is concerned, valuation report and the map drawn by the valuer Shri Kulkarni will have**

to be referred. On going through the map at Exh. 17 and valuation report at Exh. 18 it is clear that Bombay Poona Highway, Jawahar Industrial Estate, Panvel S.T.Stand, Panvel Industrial Estate, Panvel Railway Station, I.T.I. Panvel and Takka Gaothan are within the limits of 400 meters to 4000 meters from the land under reference."

The aforesaid observations are on the basis of the valuation report Exhibit 18. But Exhibit 18 has given those distances specifically and clearly and the distances of the acquired land from the aforesaid land marks are as under:

Bombay Pune Highway	0480 meters
Jawahar Co-op. Ind. Estate	4000 meters
MIDC Indus. Estate, Taloja	0007 K.Mtrs.
Panvel S.T. Stand	0800 Meters
Panvel Ind. Estate	1280 Meters
Panvel Municipal Limit	(within limits)
Panvel Railway Station	0400 Meters
Panvel Extended Municipal Limits	
I.T.I. Panvel	0640 Meters
Takkyo Gaothan	0160 Meters

It will be clear from the aforesaid description given by the Expert Jeevan Kulkarni that not only

the land is near from the National Highway but it is also near from the important land marks.

6. Therefore the claimants were justified in making the claim at Rs.20/- per sq. meter.

7. Learned AGP tried to contend that in the Reference the claimants had claimed only Rs.12/- per sq. meter. This is not a correct position. They had demanded Rs.12/- in addition to what has been awarded by the SLA0, therefore claimants have claimed for Rs.20/- per sq. meter.

8. Since the criteria of proximity from the National Highway is to be adopted, and since the acquired land was at a distance of only 480 meters from Bombay Pune National Highway, and since on that criteria the Division Bench has enhanced compensation, this appeal is required to be allowed. Therefore, the order:

ORDER

. Appeal is allowed.

. Award of granting compensation at Rs.10/- per sq. meter is modified and it is declared that the claimants will be entitled to compensation at Rs.20/- per sq. meter i.e. Rs.10/- in addition to what has been awarded by the Reference Court. Consequently all the benefits under Section 23(1)(a) and 28 of Land Acquisition Act, will also be

proportionately enhanced or increased. However, no order as to costs.

7.03.2005 (D.G. DESHPANDE, J.)